

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL RUIZ,

Plaintiff,

-against-

P. LINK, CORRECTIONAL OFFICER AT GREEN HAVEN CORRECTIONAL FACILITY; J. REYES, CORRECTIONAL OFFICER AT GREEN HAVEN CORRECTIONAL FACILITY; PATRICK SQUIRE, CORRECTIONAL OFFICER AT GREEN HAVEN CORRECTIONAL FACILITY; JOHN DOE #1, CORRECTIONAL OFFICER AT GREEN HAVEN CORRECTIONAL FACILITY; JOHN DOE #2, CORRECTIONAL OFFICER AT GREEN HAVEN CORRECTIONAL FACILITY; JOHN DOE #3, CORRECTIONAL OFFICER AT GREEN HAVEN CORRECTIONAL FACILITY; JOHN DOE #4, CORRECTIONAL SERGEANT AT GREEN HAVEN CORRECTIONAL FACILITY; DEBORAH MACDONALD, REGISTERED NURSE AT GREEN HAVEN CORRECTIONAL FACILITY,

Defendants.

20-CV-0235 (CM)

ORDER DIRECTING PAYMENT
OF FEES OR AMENDED IFP
APPLICATION AND UPDATED
PRISONER AUTHORIZATION

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff Michael Ruiz, currently incarcerated in Elmira Correctional Facility, brings this action *pro se*. To proceed with a civil action in this Court, a prisoner must either pay \$400.00 in fees – a \$350.00 filing fee plus a \$50.00 administrative fee – or, to request authorization to proceed *in forma pauperis* (IFP), that is, without prepayment of fees, submit a signed IFP application and a prisoner authorization. *See* 28 U.S.C. §§ 1914, 1915. If the Court grants a prisoner's IFP application, the Prison Litigation Reform Act requires the Court to collect the \$350.00 filing fee in installments deducted from the prisoner's account. *See* 28 U.S.C. § 1915(b)(1). A prisoner seeking to proceed in this Court without prepayment of fees must

therefore authorize the Court to withdraw these payments from his account by filing a “prisoner authorization,” which directs the facility where the prisoner is incarcerated to deduct the \$350.00 filing fee¹ from the prisoner’s account in installments and to send to the Court certified copies of the prisoner’s account statements for the past six months. *See* 28 U.S.C. § 1915(a)(2), (b).

Plaintiff submitted the complaint with a handwritten IFP application and a handwritten prisoner authorization. Plaintiff’s handwritten IFP application is not signed, and the handwritten prisoner authorization fails to acknowledge that Plaintiff understands that the full \$350.00 filing fee will be deducted in installments from his prisoner account, even if his case is dismissed or he voluntarily withdraws it. Within thirty days of the date of this order, Plaintiff must either pay the \$400.00 in fees or complete, sign, and submit the attached amended IFP application and prisoner authorization. If Plaintiff submits the amended IFP application and prisoner authorization, they should be labeled with docket number 20-CV-0235 (CM).²

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket. No summons shall issue at this time. If Plaintiff complies with this order, the case shall be processed in accordance with the procedures of the Clerk’s Office. If Plaintiff fails to comply with this order within the time allowed, the action will be dismissed.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf.*

¹ The \$50.00 administrative fee for filing a civil action does not apply to persons granted IFP status under 28 U.S.C. § 1915.

² Plaintiff is cautioned that if a prisoner files an action that is dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, the dismissal is a “strike” under 28 U.S.C. § 1915(g). A prisoner who receives three “strikes” cannot file actions IFP as a prisoner, unless he is under imminent danger of serious physical injury and he must pay the filing fees at the time of filing any new action.

Coppedge v. United States, 369 U.S. 438, 444–45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

SO ORDERED.

Dated: January 13, 2020
New York, New York



COLLEEN McMAHON
Chief United States District Judge